

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF SOUTH CAROLINA
 CHARLESTON DIVISION

Thurman Van Lilly,)	C/A No.: 2:06-1138-JFA-RSC
)	
Plaintiff,)	
v.)	ORDER
)	
Harvey Knox; John Allen; Tracy Lewis;)	
Lane Cribb; Isaac Pyatt; Matthew Modica;)	
Linda Canteen; and Tara S. Taggart,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Thurman Van Lilly, is an inmate at the Lieber Correctional Institution, a facility of the South Carolina Department of Corrections (SCDC). He initiated this action pursuant to 42 U.S.C. § 1983. The plaintiff has filed an amended complaint claiming that defendants have violated his constitutional rights.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that defendant Issac Pyatt, a state magistrate judge, has absolute immunity from suit under § 1983, and thus should be dismissed from this action. The Report sets forth in detail the relevant facts and standards of law on this matter, and the

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on May 11, 2007. He did not file timely objections² to the Report.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and defendant Issac Pyatt is hereby dismissed without service of process. Service of process shall issue, however, for the remaining defendants and the Clerk shall return this file to the Magistrate Judge.

IT IS SO ORDERED.

Joseph F. Anderson, Jr.
United States District Judge

June 12, 2007
Columbia, South Carolina

² Under 28 U.S.C. § 636(b)(1), the district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's Report to which objections have been filed. The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to timely file specific written objections to the Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).